

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Alpha Ambulance, Inc.)

San Juan, PR)

File Number: EB-02-SJ-031

NAL/Acct.No 200232680006

FRN 0005-9491-93

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 21 2002

By the Enforcement Bureau, San Juan Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Alpha Ambulance, Inc. (“Alpha”) willfully violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Section 1.903(a) of the Commission's Rules,² by operating radio transmission equipment without the required Commission authorization. We conclude that Alpha is apparently liable for a forfeiture in the amount ten thousand dollars (\$10,000).

II. BACKGROUND

2. On April 23, 2002, the FCC Enforcement Bureau’s San Juan Resident Agent Office (“San Juan Office”) received, from the Commonwealth of Puerto Rico Medical Emergencies Services, a complaint of interference affecting the frequency pair 463.100/468.100 MHz. The Commission has assigned these frequencies to the Public Safety Radio Pool and authorized their use solely for communications between medical facilities and personnel involving treatment and transport of patients in the rendition of medical services.³ The complaint alleged that interference to ongoing emergency medical communications was caused by Alpha. FCC license records showed no license issued to Alpha for operation on these frequencies.

3. On May 6, 2002, an agent of the San Juan Office used direction finding techniques to locate radio transmissions on the frequency 468.100 MHz. The agent determined the source of the transmissions to be a one-story building located at # 1720 Eduardo Conde Ave., Santurce, Puerto Rico. A sign on the building identified it as Alpha Ambulance. The agent also confirmed that Alpha’s ambulances transmitted on the 463.100/468.100 MHz frequency pair.

4. On May 7, 2002 a San Juan agent went to the offices of Alpha Ambulance and interviewed

¹ 47 U.S.C. § 301.

² 47 C.F.R § 1.903(a).

³ See 47 C.F.R. §§ 90.20(c)(3) and 90.20(d)(76).

the owners, Ms. Milagros Montero and her daughter, Ms. Wendy Montero. Ms. Milagros Montero stated that they both owned Alpha Ambulance, Inc., and admitted that the company operated radio transmission equipment on 463.100/468.100 MHz. Upon the agent's request to see the radio station authorization, Ms. Milagros Montero handed the agent a copy of a license under which she alleged to be operating. The license was issued in the name of First Aid Ambulance, Inc. for the frequency pair 463.100/468.100 MHz, call sign KNIG648, and had expired on April 8, 2001. Ms. Milagros Montero stated that First Aid Ambulance was owned by her ex-husband, his mother and sister, that First Aid Ambulance had dissolved about three years ago, and that Alpha had operated the radio equipment since that time. Alpha could not produce any authorization to operate on 463.100 or 468.100 MHz. Ms. Milagros Montero did produce documents indicating that, on or about June 18, 2001, Alpha had submitted paperwork to a license application service to renew the license issued to First Aid Ambulance, but had failed to provide the proper documentation of frequency coordination, resulting in no action taken.

III. DISCUSSION

5. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. Section 1.903(a) of the Commission's Rules provides, in pertinent part, that stations in the Wireless Radio Services must be operated only with a valid Commission authorization. On May 6, 2002, Alpha operated radio transmission equipment on the Public Safety Radio frequencies 463.100 and 468.100 MHz without the required FCC authorization.

6. Based on the evidence before us, we find that, on May 6, 2002, Alpha willfully⁴ violated Section 301 of the Act and Section 1.903(a) of the Commission's Rules by operating radio transmission apparatus without a license.

7. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation(s) cited in this notice is \$10,000.⁵ Section 503(b)(2)(D) of the Act requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁶ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503 (b)(2)(D).

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁸ Alpha Ambulance, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 301 of the Communications Act of 1934, as amended, and Section 1.903(a) of the Commission's Rules.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Alpha Ambulance, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above.

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by regular mail and Certified Mail Return Receipt Requested to Alpha Ambulance, Inc. at Box 19313, Fernandez Juncos Station, Santurce, PR 00910.

FEDERAL COMMUNICATIONS COMMISSION

Reuben Jusino

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁹ See 47 C.F.R. § 1.1914.

